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Attorneys for Defendant,  
ROBERT LEE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA

Plaintiff,

vs.

ROBERT LEE, et al.,

Defendants.

Case Nos. CR-13-566-EMC  
CR-15-246-EMC

DEFENDANT ROBERT LEE'S  
SENTENCING MEMORANDUM

Date: November 18, 2015  
Time: 2:30 p.m.  
Court: Honorable Edward M. Chen

**I. INTRODUCTION**

In this Accessory After the Fact and Arson case, the parties have crafted a Rule 11(c)(1)(C) and 11(c)(1)(A) plea agreement that requests the Court to sentence Mr. Lee to a reasonable sentence of 84 months under the sentencing factors enumerated in 18 U.S.C. § 3553(a). In recommending a 84 month sentence, the United States Probation Office recognized that a below Sentencing Guideline sentence is appropriate in this case and took into careful consideration a variety of factors at play in Mr. Lee's case, including being raised by a single parent with mental health and alcohol issues, substance abuse,

1 homelessness, relatively minor drug related criminal history, and positive strides prior to  
2 being arrested. The defense submits that, under all the factors that this Court should  
3 consider, a sentence of 84 months is sufficient to adequately impress upon Mr. Lee the  
4 seriousness of his conduct, while addressing some of the sentencing objectives of just  
5 punishment, rehabilitation, and deterrence as listed in U.S.C. § 3553(a).

## 6 **II. ARGUMENT**

7 In light of the Court's statements at the sentencing hearing on October 14, 2015,  
8 that the Court was prepared to accept the Plea Agreement in this matter, Mr. Lee will  
9 briefly address several sentencing related issues below.

### 10 **A. GED Verification.**

11 The PSR at Paragraph 61 states that verification is pending of Mr. Lee's GED.  
12 Attached as Exhibit A is a true and correct copy of Mr. Lee's GED transcript showing  
13 that he passed his GED.

### 14 **B. Designation.**

15 As noted in the PSR at Paragraph 61, Mr. Lee is interested in obtaining skills in  
16 electrical, HVAC, plumbing or trucking. Mr. Lee has researched the programs available  
17 for inmates at various institutions and would request that the Court recommend to the  
18 Bureau of Prisons that Mr. Lee be designated to FCI Terminal Island located in San  
19 Pedro, California, so that Mr. Lee can take advantage of the job training programs  
20 available at that institution.

21 Alternatively, as noted by paragraph 57 of the PSR, Mr. Lee desires to participate  
22 in the life of his 6 year old daughter, Willow Lee. Thus, should space not be available at  
23 FCI Terminal Island, Mr. Lee would request that the Court recommend to the Bureau of  
24 Prisons that Mr. Lee be designated to FDC SeaTac located in Seattle, Washington so that  
25 he can be close to his daughter and her mother who live in the Seattle, Washington area.

### 26 **C. Restitution.**

27 After the PSR had been prepared, the defense received a Victim Impact Statement  
28

1 and a request for restitution from Reetpaul Rana's mother, Jasbir K. Hanjan. Under 18  
 2 U.S.C. § 3663A(a)(2), the Court shall order restitution to "a person directly and  
 3 proximately harmed as a result of the commission of the offense . . ." In other words,  
 4 restitution is proper only for losses directly resulting from a defendant's offense. *Gall v.*  
 5 *United States*, 21 F.3d 107 (6<sup>th</sup> Cir. 1994) (restitution may not be imposed to repay  
 6 government for investigative costs); *United States v. Mullins*, 971 F.2d 1138 (4<sup>th</sup> Cir.  
 7 1992) (restitution under the Victim Witness Protection Act cannot include consequential  
 8 damages); *United States v. Kenney*, 789 F.2d 783 (9<sup>th</sup> Cir. 1986) (restitution cannot  
 9 include wages for employees while they testified). In this case, Mr. Lee has been  
 10 convicted of being an accessory after the fact and of arson in burning Mr. Rana's car.  
 11 The harm that arises from the commission of these offenses is the value of Mr. Rana's  
 12 1996 Saab, which Ms. Hanjan estimates at \$2,000. Mr. Lee is prepared to accept a  
 13 restitution order in that amount.

#### 14 **D. Credit for Time Served**

15 Mr. Lee understands that the determination of Mr. Lee's credit for the time he has  
 16 already served in custody will ultimately be determined by the Bureau of Prisons.  
 17 Nevertheless, undersigned counsel details here what undersigned counsel's non-binding  
 18 understanding of the state of Mr. Lee's custody credits.

19 As detailed by paragraphs 23 and 5 of the PSR, Mr. Lee was arrested for the  
 20 murder of Reetpaul Rana on October 19, 2011, and was in continuous state custody until  
 21 August 29, 2013. He was then arrested for this federal case involving the same  
 22 underlying facts as the state case and has been in continuous Federal custody since  
 23 August 30, 2013. Also on August 30, 2013, the State of California dismissed the charges  
 24 against Mr. Lee. PSR paragraph 24. Under 18 U.S.C. § 3585(b)(1), Mr. Lee "shall be  
 25 given credit toward the service of a term of imprisonment for any time he has spent in  
 26 official detention prior to the date the sentence commences— as a result of the offense for  
 27 which the sentence was imposed . . . that has not been credited against another sentence."  
 28

1 Since the California State charges were dismissed on August 30, 2013, none of the time  
2 Mr. Lee has been in custody since October 19, 2011, has been credited against another  
3 sentence. Therefore, the Bureau of Prisons ought to give custody credits to Mr. Lee for  
4 the entire time he has been in custody since October 19, 2011.

5  
6 **IV. CONCLUSION**

7 For the foregoing reasons, the defense respectfully submits that a sentence of 84  
8 months of custody is sufficient to fulfill the statutory mandate of 18 U.S.C. § 3553(a).

9 Dated: November 11, 2015

Respectfully Submitted  
TAMOR & TAMOR

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11 /S/

12 RICHARD A. TAMOR, ESQ.  
13 Attorneys for Defendant,  
14 Robert Lee  
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# EXHIBIT A



# OFFICIAL GED® TRANSCRIPT

Issued by the GED Testing Service as of **09/30/2015**

*Martin Kehe*  
Martin Kehe  
Vice President, Assessment Services

## CANDIDATE INFORMATION

<b>LAST NAME:</b> LEE	<b>FIRST NAME:</b> ROBERT	<b>MIDDLE:</b> L
<b>ADDRESS:</b> 404 SOUTH MAIN STREET	<b>ADDRESS2:</b>	<b>COUNTRY:</b> US
<b>CITY:</b> BRATTLEBORO	<b>STATE:</b> VT	<b>ZIP:</b> 05301
<b>ID NUMBER:</b> VT406078	<b>DATE OF BIRTH:</b> 04/09/1985	<b>PHONE:</b> 8022544495
<b>TESTING JURISDICTION:</b> Vermont	<b>PASS DATE:</b> 12/11/2001	

Click on a test subject area or performance level for more detailed information

## TEST RESULTS

	DATE	TEST FORM	SCORE*	STATUS	PERCENTILE RANK
Language Arts, Writing		AT	46	PASS	37
Science		AT	52	PASS	60
Social Studies		AT	58	PASS	83
Mathematics		AT	47	PASS	33
Language Arts, Reading		AT	57	PASS	80

Score Total	260	Overall
Battery Average	52	PASS

\* The scores on the report are the highest scores achieved by the candidate and not necessarily the most recent. If retest scores are lower than scores previously achieved, the retest scores are not reported.

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